APPENDIX "A".

JUDGMENT.

(Filed October 10, 1958)

This cause has been heard and considered upon the oral arguments and briefs of attorneys for the parties and upon the record in the case.

And it appearing that the findings of fact of the District Judge Brooks are supported by substantial evidence and are not clearly erroneous, and that his conclusions of law rest upon a sound basis;

The judgment of the District Court is affirmed, and it is so ordered.

ORDER DENYING REHEARING.

(Filed February 4, 1959)

The court has considered appellants' petition for rehearing which closes with the following: "We beg of the Court to give this case careful consideration, even though the amount involved is small, in the interest of justice and good conscience." In justice and good conscience the court has already given this case careful consideration. The petition for rehearing contains argument that is cumulative and repetitious in relation to that presented in support of the prior appeal.

The petition for rehearing is denied.

APPENDIX "B".

Miller Act, 49 Statute 793.

U. S. C. A. 270a(a)(2). A payment bond with a surety or sureties satisfactory to such officer for the protection of all persons supplying labor and material in the prosecution of the work provided for in said contract for the use of each such person. • • •

U. S. C. A. 270b(a). • • • *provided, however,* That any person having direct contractual relationship with a subcontractor but no contractual relationship express or implied with the contractor furnishing said payment bond shall have a right of action upon said payment bond upon giving written notice to said contractor within ninety days from the date on which such person did or performed the last of the labor or furnished or supplied the last of the material for which such claim is made, • • •.